

Military Voters Lose Out as States Race to be First in Presidential Primaries

By Captain Samuel F. Wright, JAGC, USN (Ret.)²

7.1—Election officials must get the absentee ballots out in time for the service member to vote.

The process of selecting delegates to the Democratic³ and Republican Party nominating conventions starts earlier each cycle. New Hampshire (with the first primary) and Iowa (with the first caucus) insist on being first. They like the attention, and all the campaign workers and reporters generate a lot of business for local hotels and restaurants. Other states are afraid of missing out—of holding their primaries after the nominee has already effectively been selected. As other states move up their primaries, Iowa and New Hampshire move their contests still earlier. It is likely that the opening rounds of the 2012 nominating process will be held before 2011 is over.

My concern is that this race to be first will result in the disenfranchisement of the brave young men and women who are away from home and prepared to lay down their lives in defense of

¹I invite the reader's attention to www.roa.org/lawcenter. You will find more than 2000 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about very specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997.

²BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. For 43 years, I have worked with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans' Reemployment Rights Act (VRRA—the 1940 version of the federal reemployment statute) for 36 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. 4301-35). I have also dealt with the VRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at SWright@roa.org.

³President Obama will almost certainly be unopposed for the Democratic Party nomination for President in 2012.

our country, in our nation's armed forces. Because of their service to the nation, they cannot come home to vote in primaries or elections. If they are to vote at all, it must be by absentee ballot.

Absentee voting has always been difficult for military personnel—there often is not enough time for the ballot to go from the local election official to the voter and back in time for the ballot to be counted. As states race to hold their primaries earlier in the year, the ballot transmission time problem can only get worse.

I also urge the state legislatures and state party organizations to select national convention delegates by primary, rather than caucus. The 9,081 Iowans serving on active duty will almost certainly be disenfranchised in the Iowa caucuses—their military service precludes them from coming home to participate. Earlier this year, I sent an e-mail to Matthew N. Strawn, the Chairman of the Republican Party of Iowa. I urged him to consider means to enable Hawkeye State service members to participate in the selection of the Republican presidential nominee.

Mr. Strawn did not respond to me, but when *Politico* (the newspaper for political junkies here in Washington and around the country) picked up on this story, Mr. Strawn promised to direct the Republican State Central Committee to review how the voting rights of military personnel might be accommodated. I am anxiously awaiting a report on the results of that review.

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This article is one of 1800-plus “Law Review” articles available at <https://www.roa.org/page/lawcenter>. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. New articles are added each month.

ROA is almost a century old—it was established in 1922 by a group of veterans of “The Great War,” as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For many decades, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation’s defense needs.

Indeed, ROA is the *only* national military organization that exclusively supports America’s Reserve and National Guard.

Through these articles, and by other means, we have sought to educate service members, their spouses, and their attorneys about their legal rights and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA or eligible to join, but please understand that ROA members, through their dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

If you are now serving or have ever served in any one of our nation's seven uniformed services, you are eligible for membership in ROA, and a one-year membership only costs \$20. Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to those who are serving or have served in the Active Component, the National Guard, or the Reserve.

If you are eligible for ROA membership, please join. You can join on-line at www.roa.org or call ROA at 800-809-9448.

If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

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